

AGENDA MEMO

CITY COUNCIL MEETING DATE: JANUARY 21, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-31691 - APPLICANT/OWNER: MICHELLE SHAPPIE

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (6-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a seven-foot side yard setback where ten feet is required for a proposed room and patio cover addition at 4998 Sandra Road. The home on the site was constructed in 1964. Staff finds there are many alternatives to the proposed design, which would not require a Variance, and therefore recommends denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
c. 1964	Single-family residence constructed.
12/18/08	The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #15/leh).
<i>Related Building Permits/Business Licenses</i>	
01/26/99	A permit (#9901454) for a block wall was issued at 4998 Sandra Road and given final approval on 07/20/99.
<i>Pre-Application Meeting</i>	
10/09/08	The requirements for a Variance were discussed with a representative of the applicant.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	

<i>Field Check</i>	
11/06/08	Staff conducted a field check and found the subject site to be occupied and well maintained.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	.45

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
North	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
South	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
East	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
West	Single-Family	R (Rural Density	R-E (Residence

	Residence	Residential)	Estates)
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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District	X		Y*
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

***Rural Preservation Overlay District**

It is the intent of the Rural Preservation Overlay District to:

1. Ensure that the rural character of each rural preservation neighborhood is preserved.
2. Unless a rural preservation neighborhood is located within 330 feet of an existing or proposed street or highway that is more than 90 feet wide, maintain the rural character of the area developed as a low density residential development.
3. Provide adequate buffer areas, adequate screening and an orderly and efficient transition of land uses, excluding raising or keeping animals commercially or non-commercially.
4. Establish a basis for the modification of standards for the development of infrastructure to maintain the rural character of the rural preservation neighborhood.

The subject property meets the intent of the Rural Preservation Overlay District.

DEVELOPMENT STANDARDS

Title 19.08 Development Standards

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000	19,602	Y*
Min. Lot Width	100 Feet	60 Feet	Y*
Min. Setbacks			
• Front	50 Feet	50 Feet	
• Side (east)	10 Feet	2 Feet 6 Inches***	Y***
• Side (west)	10 Feet	8 Feet 7 Inches***	Y***
• Rear	35 Feet	45 Feet	Y
Max. Lot Coverage	N/A	12%	N/A
Max. Building Height	2 Stories or 35 Feet (whichever is less)	15 Feet**	Y or N

**Development Standards are per Title 19.08 Development Standards for the R-E (Residence Estates) zoning district. The subject property was constructed in 1964 and the lot size and width is Legally Non-Conforming.*

*** The existing residence is non-conforming for the minimum side yard setback. The proposed addition will result in an encroachment beyond that of the existing building, to a setback of seven feet. Since the encroachment will increase, a Variance is required, and Title 19.16.030 (C) standards for additions to non-conforming buildings do not apply.*

****The proposed expansion will not increase the height of the existing structure.*

ANALYSIS

This is a request for a Variance to allow a seven-foot side yard setback where 10 feet is required for a proposed 466 square-foot room and patio cover addition to an existing 1,305 square-foot residence at 4998 Sandra Road. The existing residence is a non-conforming structure in that it has a side yard setback of eight feet along the west property line where the addition is proposed. The proposed addition will reduce this side yard setback to seven feet. For additions to non-conforming buildings, Title 19.16.030(C) states that “the Director may approve additions to non-conforming buildings when the non-conformance is a result of inadequate setbacks and provided that the addition conforms to all other provisions of this Title. The addition shall not encroach beyond the encroachment of the existing building, must be located in either a side or rear yard, and must not encroach more than fifty percent. In addition, the total of all such additions or enlargements shall not exceed more than fifty percent of the size of the original footprint of the structure.” As the proposed addition will encroach beyond the encroachment of the existing residence, Title 19.16 does not apply, and this Variance is required.

The home was constructed in 1964 and the surrounding area is rural in character. While the proposed expansion of the home is harmonious and compatible with the surrounding area, the applicant could utilize an alternative design which would not require a Variance. Staff therefore finds this to be a self imposed hardship and recommends denial.

- **Zoning**

The subject property is designated R (Rural Density Residential) under the Las Vegas 2020 Master Plan. The Rural Density Residential category is a rural or semi-rural environment with a lifestyle much like that of Desert Rural, but with a smaller allowable lot size.

The subject property is zoned R-E (Residence Estates). The purpose of the R-E districts is to provide for low density residential units located on large lots and conveying a rural environment. This district is consistent with the policies of the Rural Density Residential category of the General Plan.

- **Elevations**

The proposed building elevations depict a continuation of the existing structure, including materials and color palette. The proposed roof line will mirror the existing roof line and not extend beyond the existing height.

- **Floor Plan**

The applicant is proposing the addition of a bedroom, bathroom and laundry room including a covered patio. The existing residence is approximately 8 feet 4 inches from the property line, and the proposal will bring the footing of the patio cover within approximately 7 feet 4 inches of the property line.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship. An alternative design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

The Planning Commission amended condition #1 as shown to which the applicant agreed.

ASSEMBLY DISTRICT 14

SENATE DISTRICT 2

NOTICES MAILED 164 by City Clerk

APPROVALS 5

PROTESTS 1